IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr. Appeal No.: 41 of 2001.

Reserved on: 05.12.2007.

Decided on: 07.12.2007.

State of Himachal Pradesh. …… Appellant.

Versus

Puran Chand & Others. …… Accused/Respondents.

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting?[1] *No.*

For the Appellant:	**Mr. M.A. Khan, Deputy Advocate General.**
For the Accused/Respondents:	**Mr. Rakesh Jaswal, Advocate.**

Rajiv Sharma, Judge:

The respondents were accused in case No.15/2 of 1997/95 under Section 506/34 of IPC in the Court of J.M.I.C. (III), Shimla and were acquitted by the trial Court on 20.5.2000. The present appeal has been filed by the State against the acquittal of respondents/accused.

The brief facts as projected in the judgment of the trial Court are that on 2.5.1995 one Shri Punnu Ram (hereinafter referred to as the complainant) made a complaint to the police that accused Puran Chand, who is residing near the quarter of the complainant had got beaten his wife by some persons on 1.5.1995. On the next morning,

---

[1] *Whether reporters of local papers may be allowed to see the judgment? No.*

i.e. 2.5.1995 the accused Puran Chand gave beatings to him and his wife. Consequently FIR was registered and the injured were got medically examined and on completion of the investigation, the challan was put up in the Court. The charges were framed against the accused on 18.2.1997. They were examined under Section 313 Cr.P.C, where they pleaded innocence and stated that the evidence led against them to be false and incorrect. The prosecution had examined as many as nine PWs to prove its case against the accused. The trial Court acquitted the accused on 20.5.2000, hence this appeal by the State against their acquittal.

The learned Deputy Advocate General had strenuously argued that the prosecution had proved the charges against the accused. He vehemently argued that the trial Court has failed to appreciate the evidence led by the prosecution in right perspective leading to grave mis-carriage of justice. Shri Rakesh Jaswal had supported the judgment dated 20.5.2000.

PW-1 is Punnu Ram himself. He has deposed that on 1.5.1995 when he reached his house, his son told him that when he was coming from school, 5-6 boys had given beatings to him. He further deposed that on 2nd May, 1995 he was given beatings by the accused Puran Chand and his family members. Punnu Ram was not medically examined as per his own statement. PW-2 is Dr. S. Kumar who had examined Simro Devi vide M.L.C. Ex.PW-2/A. He has stated that the injuries recorded in the M.L.C. could be caused due to broken bangles. Simro Devi had appeared as PW-3. She had deposed that the accused Puran Chand alongwith his family members had given beatings to them. PW-4 is Shri Beli Ram. According to him, he heard noise on 2.5.1995 at 8.35 A.M. and saw accused giving beatings to the complainant Punnu Ram and his son.

PW-5 is Dr. R.K. Gupta who had examined Anil Kumar vide M.L.C. Ex.PW-5/A. PW-6 is Gian Chand, who had supported the version of PW-4.

The accused had produced four DWs. to prove their innocence. Ramesh Chand, DW-1 had stated that on 23.5.1997 a complaint was made by the complainant Puran Chand against Punnu Ram, Santosh, Gian Chand and Bali Ram. DW-2 is H.C. Daulat Ram, who has tendered the complaint Ex.DW-2/A addressed to the S.S.P., Shimla against complainant Punnu Ram. DW-3 is Daya Ram, Clerk serving in the office of S.P., Shimla. He has tendered the copy of complaint Ex.DW-3/B made by Puran Chand against Punnu Ram. DW-4 Shri Pratap Singh had tendered the copy of F.I.R. got registered by Joginder Singh son of Puran Chand against complainant Punnu Ram and another complaint lodged by Bhagwan against Punnu Ram vide Ex.DW-4/B.

It is evident from the record that counter cases were got registered by the parties against each other. The witnesses who had appeared in the present case had also appeared in other cases. The prosecution has not produced any independent witness to prove the charges against the accused. The witnesses produced by the prosecution are interested and had been deposing repeatedly against the accused persons. Simro Devi had her-self admitted that she suffered the injuries due to broken bangles. Thus, it cannot be said that the accused had voluntarily caused hurt to her. The prosecution has not led any evidence to prove that the accused persons in furtherance of common intention had wrongfully restrained the complainant, his wife and his son.

The prosecution has not taken into possession the kulhara (axe) with which according to the complainant and Simro Devi, the

accused had threatened them. The prosecution has failed to prove the charge against the accused. The judgment of the trial Court is up-held since the same is based on correct appreciation of the evidence.

Consequently, the appeal fails and the same is dismissed. The bail bonds furnished by the respondent-accused are hereby discharged.

December 07, 2007. **(Rajiv Sharma),**
(sck) **Judge.**